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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-591

11 **CANDACE CLORESE FRAZIER**
12 **Address of Record:**
13 **101 Shannon Drive**
14 **Greenville, SC 29615**

DEFAULT DECISION AND ORDER

15 **Additional Address:**
16 **2351 Shoal Creek Drive**
17 **Pensacola, FL 32514**

[Gov. Code, §11520]

18 **Registered Nurse License No. 538954**

19 Respondent.

20 **FINDINGS OF FACT**

21 1. On or about April 2, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official
22 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs, filed Accusation No. 2012-591 against Candace Clorese Frazier (Respondent)
24 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

25 2. On or about December 2, 1997, the Board of Registered Nursing (Board) issued
26 Registered Nurse License No. 538954 to Respondent. The Registered Nurse License expired on
27 September 30, 2005, and has not been renewed.

28 3. On or about April 2, 2012, Respondent was served by Certified and First Class Mail
copies of the Accusation No. 2012-591, Statement to Respondent, Notice of Defense, Request for
Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

Respondent's address of record which, pursuant to California Code of Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board. Respondent's address of record was and is 101 Shannon Drive, Greenville, SC 29615, and was served the same documents by Certified and First Class Mail at an additional address, 2351 Shoal Creek Drive Pensacola, FL 32514.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

5. Government Code section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

6. As of April 20, 2012, neither the Certified Mail Receipt nor the First Class Mail was returned to the Board. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-591.

7. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2012-591, finds that the charges and allegations in Accusation No. 2012-591, are separately and severally, found to be true and correct by clear and convincing evidence.

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9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$315.00 as of April 20, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Candace Clorese Frazier has subjected his Registered Nurse License No. 538954 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Business and Professions Code section 2761 subdivision (a)(4) of the Code for disciplinary action taken by the Alabama Board suspending in 2005 and then revoking in 2006 Respondent's Alabama registered nursing license for taking and using controlled substances and then failing to comply with the terms of her suspension.

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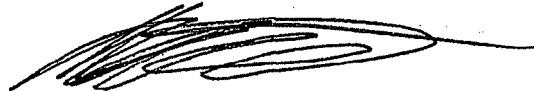
ORDER

IT IS SO ORDERED that Registered Nurse License No. 538954, heretofore issued to Respondent Candace Clorese Frazier, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012.

It is so ORDERED July 5, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51098967.DOC
DOJ Matter ID: LA2012506406

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GEOFFREY L. WARD
State Bar No. 246437
4 300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2660
Facsimile: (213) 897-2804
6 Attorneys for Complainant

7 BEFORE THE
8 BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No.

2012-591

11 CANDACE CLORESE FRAZIER

ACCUSATION

12 Address of Record:
101 Shannon Drive
13 Greenville, SC 29615

14 Additional Address:
2351 Shoal Creek Drive
15 Pensacola, FL 32514

16 Registered Nurse License No. 538954

17 Respondent.

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19 Complainant alleges:

20 PARTIES

21 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
23 Department of Consumer Affairs.

24 2. On or about December 2, 1997 the Board issued Registered Nurse License Number
25 538954 to Candace Clorese Frazier ("Respondent"). The Registered Nurse License became
26 delinquent on September 30, 2005 and has not been renewed.

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JURISDICTION AND STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Section 2811 subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

5. Sections 118 subdivision (b) of the Code also grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

6. Section 2761 of the Code provides grounds for disciplinary action:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **CAUSE FOR DISCIPLINE**

4 **(Disciplinary Action by the Alabama Board of Nursing)**

5 8. Respondent is subject to discipline pursuant to Section 2761 subdivision (a)(4) of the
6 Code on the grounds of unprofessional conduct because he was disciplined by the Alabama Board
7 of Nursing ("Alabama Board"), as follows:

8 9. On or about May 20, 2005, the Alabama Board issued a Consent Order in the
9 disciplinary action entitled, *In the Matter of Candace Clorese Harding Frazier, License No. 1-*
10 *066622*. In that Consent Order, the Alabama Board suspended Respondent's Alabama nursing
11 license for a year based on the finding that in September 2004 Respondent tested positive for
12 Meperidine,¹ a controlled substance, at an on the job drug screening administered by her
13 employer, Crestwood Medical Center in Birmingham, Alabama.

14 10. In the Consent Order, Respondent admitted that she took the Meperidine from her
15 employer for her own use and agreed to comply with the terms of her one-year suspension, which
16 required her to be evaluated and treated for chemical dependency.

17 11. Respondent failed to comply with the terms of the suspension. So on or about June
18 2006 the Alabama Board revoked her Alabama registered nursing license.

19 12. Under Section 2761 subdivision (a)(4) of the Code, the Alabama Board's disciplinary
20 actions suspending and then revoking Respondent's Alabama registered nursing license for taking
21 and using controlled substances are separate and independent grounds for the California Board to
22 take its own disciplinary action.

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27 ¹ Meperidine is an opiate used for pain relief. (See California Health and Safety Code
28 section 11055(c)(17)(listing "Pethidine (meperidine)" as a Schedule II controlled substance.))

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 538954, issued to Candace Clorese Frazier;
2. Ordering Candace Clorese Frazier to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code Section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: April 2, 2012

Louise L. Bailey
LOUISE R. BAILEY, M.Ed., R.N.
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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